



Malta

Country Reports on Human Rights Practices - [2003](#)

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Malta is a constitutional republic and a parliamentary democracy. The chief of state (President) appoints as the head of government (Prime Minister) the leader of the party that gains a plurality of seats in the quinquennial elections for the unicameral legislature; general elections were held on April 12. The Nationalist Party was returned to power with a 51.79 percent majority. The opposition Labour Party obtained 47.51 percent of the votes; voter turnout was 96 percent. The judiciary is independent.

The Police Corps is responsible for the internal security of the country, for maintaining law and order and for enforcing the law when required, with the backup support of the Armed Forces of Malta. The civilian authorities maintained effective control of the security forces. There were no reports that security forces committed human rights abuses.

The economy was a mixture of state-owned and private industry, with manufacturing and services, including tourism, the largest sectors. It provided residents with a moderate to high standard of living. The country had a population of 397,296.

The Government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of addressing individual instances of abuse.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards. Men and women were held separately, as were juveniles and adults. Pretrial detainees were also held separately from convicted prisoners. A new prison block that is expected to hold over 100 inmates was opened during the year and was in use by year's end.

The Government permits visits by independent human rights observers; however, there were no reported prison visits during the year.

d. Arbitrary Arrest, Detention, or Exile

The Constitution and the law prohibit arbitrary arrest and detention, and the Government generally observed these

prohibitions.

The Police Corps maintains internal security with the backup support of the Armed Forces of Malta. The Armed Forces of Malta are responsible for the defense of the Maltese Islands, with an emphasis on Malta's territorial waters and airspace. The appointed commissioner who commands the police was under the effective supervision of the Ministry of Home Affairs and may be either a civilian or career member of the force, while the commander of the armed forces fell under the direct supervision of the Prime Minister.

During the year, the Police Ordinance Act took effect, which provides for a witness protection program, the establishment of a Police Board, and a mechanism to receive both internal and external complaints, as well as support the rights of police officers.

The police may arrest a person for questioning on the basis of reasonable suspicion but within 48 hours must either release the suspect or file charges. Arrested persons have no right to legal counsel during this 48-hour period. Persons incarcerated pending trial were granted access to counsel. Bail normally was granted. Detention cells, which were extensively refurbished and upgraded, were in use at police headquarters.

The Constitution prohibits forced exile, and the Government did not employ it.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

At year's end, criminal corruption charges were outstanding against a former Chief Justice and a second judge who resigned over bribery charges, and trials were scheduled. In October, the Constitutional Court overturned an earlier sentence handed down by the Court of Appeal that held that the Prime Minister's remarks at a press conference in August about the case had violated the judges' rights for a fair trial, nevertheless, the criminal proceedings against the two judges are expected to proceed. No date had been set at year's end.

The President, on the advice of the Prime Minister, appoints the Chief Justice and 16 judges. Judges serve until the age of 65, and magistrates serve until the age of 60. The highest court, the Constitutional Court, interprets the Constitution and has original jurisdiction in cases involving human rights violations and allegations relating to electoral corruption charges. The two courts of appeal hear appeals from the civil court, court of magistrates, special tribunals, and the criminal court, respectively.

The criminal court, composed of a judge and nine jurors, hears criminal cases. The civil court first hall hears civil and commercial cases that exceed the magistrates' jurisdiction; the civil court's second hall offers voluntary jurisdiction in civil matters. The court of magistrates has jurisdiction for civil claims of less than \$2,724 (2,179 euros) and for lesser criminal offenses. The juvenile court hears cases involving persons under 16 years of age.

The Constitution provides for the right to a fair public trial before an impartial court, and an independent judiciary enforces this right. Defendants have the right to counsel of their choice or, if they cannot pay the cost, to court-appointed counsel at public expense. Defendants enjoy a presumption of innocence, may confront witnesses, present evidence, and had the right of appeal.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; violations were subject to effective legal sanctions.

Police officers with the rank of inspector and above were allowed to issue search warrants based on reasonable grounds for suspicion of wrongdoing. Under the law, special powers such as telephone tapping are available to the security services only under specific written authorization of the Minister for Home Affairs or the Prime Minister; such actions were permitted only in cases related to national security, including combating organized crime. A special commission and security committee examined these authorizations; the Prime Minister, the Leader of the Opposition, and the Ministers for Home and Foreign Affairs sat on this committee and oversaw the service's work.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the law bans foreign participation in local politics during the period leading up to elections, although this provision rarely was used. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press including academic freedom.

The independent media were active and expressed a wide variety of views without Government restriction. Two television stations and two radio stations operated under the state-owned Public Broadcasting Services, and the two major political parties each owned a television and radio station. The international media was allowed to operate freely and was present during the national referendum in March.

A Court of Appeal judgment confirmed an earlier judgment by the Civil Court, that the Broadcasting Authority had discriminated against the Nationalist Party when it did not allow the party to air European Union-related publicity spots on state television as a balance to spots broadcast by another political party.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Constitution establishes Roman Catholicism as the State religion, but there are numerous non-Catholic religious movements practicing freely. The Government and the Catholic Church participated in a foundation that finances Catholic schools. While religious instruction in Catholicism was available in all state schools, the Constitution establishes the right not to receive this instruction if the student (or guardian, in the case of a minor) objected.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

The Refugee Act of 2000 provides for the granting of refugee or asylum status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR). In practice, the Government provided protection against refoulement, and granted refugee status and asylum. The law provides for refugee status, access to free social services and education, residence permits, and travel documents. Work permits for refugees were issued on a case-by-case basis. A refugee commission and an appeals board review asylum applications.

The law provides for due process and protections available to refugees applying for asylum. The Government also provides Temporary Humanitarian Protection to persons who do not qualify as refugees or asylees. From January to August, the refugee commission received 299 applications for refugee status. It approved 28 of these and refused 99; 49 remained pending, and 123 were offered Temporary Humanitarian Protection by year's end.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens could freely choose and change the laws and officials that govern them. Parties and candidates may freely propose themselves or be freely nominated by various elements in the society. The last general election was held in April.

There were 6 women in the 65-seat House of Representatives; 1 woman held ministerial rank in the 14-member cabinet. After the April elections one woman was also promoted to Parliamentary Secretary. There were four women in the Magistrates' Court. There were no members of minorities in the 65-seat legislature or the cabinet.

The Government has taken steps to include more women in the civil service and other government positions, and 13.2 percent of senior government officials were female; 20 out of a total of 153 women were serving as chairpersons on appointed government boards. In July, the Government appointed its first woman ambassador.

Section 4 Governmental Attitude Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution and law prohibit discrimination based on race, place of origin, political opinion, color, creed, or sex. Alleged victims of job discrimination were allowed to apply directly for redress to the Employment Commission of the first hall of the Civil Court in the appropriate jurisdiction.

Women

Reports of domestic violence against women showed a small increase. Between January and August, the Police Domestic Violence Unit received 147 reports of domestic violence, compared with 205 reports for the entire year 2002. A special police unit and several voluntary organizations provided support to victims of domestic violence. There was a hotline to assist victims of abuse through counseling and referrals to legal assistance shelters. The Government provided support to victims of domestic violence through the Department of Welfare for the Family and its Social Welfare Agency known as Appogg. A Government-supported shelter for women and children operated during the year. The Government also maintained an emergency fund and subsidized shelters. The Government provided financial support to a shelter operated by the Catholic Church, and provided funds for its enlargement.

Rape and violent indecent assault carry sentences of up to 10 years' imprisonment. The law treats spousal rape in the same manner as other rape. Divorce is not legal.

Prostitution is a serious offense under the law, and stiff penalties are reserved for organizers. Although exact figures were not available, there were some prosecutions during the year. The law was enforced in such cases and included prison sentences of between several months to 2 years. Four foreign women were given a 4-month jail term, suspended for 1 year, then deported for actions inconsistent with their non immigrant visa status.

The Constitution provides that all citizens have access, on a nondiscriminatory basis, to housing, employment, and education; however, while women constituted a growing portion of the work force, they were underrepresented in management. Cultural and traditional employment patterns often directed women either into jobs traditionally occupied by women (such as teachers or nurses) or into jobs in family-owned businesses or select professions (academia or medicine). As a result, women generally earned less than their male counterparts.

The Ministry of Social Policy oversaw women's issues, and the Department for Women in Society and the National Commission for the Advancement of Women handled such issues. The Commission's program continued to focus on broader integration of women into society. It advised the Government on the implementation of policies in favor of equality of the sexes. The Department for Women in Society was responsible for the implementation of initiatives and guidelines set by the Commission. The Equality for Men and Women Act was passed in January.

Women enjoyed equality in matters of family law and the Government promoted equal rights for all persons regardless of sex. The Government took steps to provide gender-neutral legislation, and redress in the courts for sexual discrimination was available.

Children

The Government was committed strongly to children's rights and welfare. It provided free, compulsory, and universal education through age 16. Close to 100 percent of school age children attend school. The Government

provided universal free health care to all citizens.

The Government addressed concerns for children's rights and welfare within family law. A law for the establishment of the Commissioner for Children to oversee children's rights was passed in July.

The number of reported cases of child abuse increased from the previous year, although there was no societal pattern of abuse of children. As of the end of July, 562 cases of child abuse had been reported. Three members of a religious order were charged in court for sexually abusing minors under their care. A "helpline" telephone number existed for reports of suspected cases of child abuse.

In 2002, the Government ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

Persons with Disabilities

The law provides for rights for persons with disabilities. The 2000 Persons with Disabilities Act built on provisions in the public employment and accessibility laws and requires the private sector to apply equal employment guarantees already in place in the public sector. For example, private development project plans must include access for persons with disabilities. Efforts continued during the year to provide children with disabilities with access to mainstream schools as opposed to segregated schools. The Employment Training Corporation was responsible for registering unemployed persons with disabilities to ensure compliance with the law, which requires that every company employing more than 20 persons hire at least two percent of its workforce from the Register for Unemployed Disabled Persons.

National/Racial/Ethnic Minorities

There were approximately 2,000 Muslims living in the country during the year as well as a number of persons of Arab, African, and Eastern European origin. Owners of some bars and discos periodically discouraged or prohibited darker-skinned persons, particularly of African or Arab origin from entering their establishments.

The Criminal Code criminalizes racial hatred, but there were no reported court cases.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides workers with the right to associate freely, and workers exercised this right in practice. There were 35 registered trade unions, representing about 63 percent of the work force. Although all unions were independent of political parties, the largest, the General Workers' Union, generally was regarded as having close informal ties with the Labour Party. Non-civilian military and police personnel are not allowed to strike or join a union.

Under the law, the responsible minister may refer labor disputes either to the Industrial Tribunal (a government-appointed body consisting of representatives of government, employers, and employee groups) or to binding arbitration. The International Labor Organization (ILO) Committee of Experts for many years has criticized a provision of the law that permits compulsory arbitration to be held at the request of only one of the parties, in contravention of ILO Convention 87.

Under the law, an employer may not take action against any employee for participation or membership in a trade union. Complaints could be pursued through a court of law, through the Industrial Tribunal, or through the Tribunal for the Investigation of Injustices (presided over by a judge of the Superior Court); however, most disputes were resolved directly between the parties. Workers fired solely for union activities must be reinstated. There were no reports of such firings during the year.

There is no prohibition on unions affiliating internationally, and many unions have such affiliations.

b. The Right to Organize and Bargain Collectively

The law provides for workers to organize and bargain collectively, and they did so in practice. The Council for

Economic and Social Development functions as an advisory body between the Government, unions, and employers. It may also consult other organizations to advise on issues related to the economic and social development.

Workers have the right to strike, and they exercised this right. There were several reported industrial actions in both the public and private sectors. Only non-civilian personnel of the armed forces and police were prohibited from striking. These workers have internal mechanisms and organizations through which they can address their grievances. In principle, a striking union was allowed to ignore an unfavorable decision of the Industrial Tribunal by continuing to strike on other grounds. From January to August, there were five stoppages, but all were resolved in negotiations.

There are no export processing zones.

c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

d. Status of Child Labor Practices and Minimum Age for Employment

The law prohibits the employment of children younger than age 16. The Department of Labor enforced the law effectively but allowed summer employment of underage youth in businesses operated by their families; some underage children were employed as domestics, restaurant kitchen help, or vendors.

e. Acceptable Conditions of Work

The weekly minimum wage was \$143 (114 euros) for persons under age 17; \$146 (117 euros) for 17-year-olds; and \$154 (123 euros) for persons aged 18 and over. In addition, an annual mandatory bonus of \$600 (480 euros) was paid. This minimum wage structure provided a decent standard of living for a worker and family with the addition of government subsidies for housing, health care, and free education. Wage Councils, composed of representatives of government, business, and unions, regulated work hours; for most sectors, the standard was 40 hours per week, but in some trades it was 43 or 45 hours per week.

Government regulations provide for a daily rest period, which was normally 1 hour, and 1 day of rest per week. The law mandates an annual paid vacation of 4 workweeks plus 4 workdays. The Department of Labor generally enforced these requirements.

Enforcement of the Occupational Health and Safety Authority Act was uneven, and industrial accidents remained frequent. Workers were allowed to remove themselves from unsafe working conditions without jeopardy to their continued employment, a protection also enforced by the Department of Labor. Allegations of physical and sexual abuse existed but were rarely made public, and even more rarely were they the subject of court proceedings.

f. Trafficking in Persons

The criminal code prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

The White Slave Traffic Ordinance and the Criminal Code prohibit procurement for prostitution, pornography, sexual offenses, defilement of minors, illegal detainment, unlawful carnal knowledge, and indecent assault. Traffickers may be prosecuted under the criminal code or under the Immigration Act for unlawful entry or unregulated status.